

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimant Maria Antonietta De Benedetti

in re Account of Ugo De Benedetti

Claim Numbers: 217422/MBC; 217423/MBC

Award Amount: 173,400.00 Swiss Francs

This Certified Award is based upon the claims of Maria Antonietta De Benedetti (the “Claimant”) to the accounts of Ugo De Benedetti (the “Account Owner”) at the Zurich branches of [REDACTED 1] (“Bank I”) and the [REDACTED 2] (“Bank II”).

All awards are published. Where a claimant has not requested confidentiality, as in this case, only the names of the banks have been redacted.

Information Provided by the Claimant

The Claimant submitted two Claim Forms identifying the Account Owner as her paternal grandfather, Ugo De Benedetti, who was born on 17 August 1893 in Turin, Italy, and was married to Maria Antonietta De Benedetti, née Reinach, also known as “Etta,” who was born on 6 June 1904 in Milan, Italy. The Claimant stated that Ugo De Benedetti and Maria Antonietta Reinach married in Milan on 20 December 1928. The Claimant further stated that from 1928 to 1943, her grandfather, who was Jewish, resided at Via Ariosto 4 in Milan and worked at Via Case Rotte in Milan as a lawyer. The Claimant’s grandparents had two sons, Giancarlo, the Claimant’s father, who was born on 11 March 1931 and died on 12 July 1990 in Milan, and Piero, who was born on 5 October 1929 in Milan. The Claimant asserted that, intending to settle in Switzerland, where other family members had already moved in order to escape Nazi persecution, her grandfather opened a safe deposit box and two bank accounts in Zurich in 1939, one account at Bank I and a second account and a safe deposit box at Bank II, for which he gave a power of attorney to his wife. The Claimant explained that, after having been refused a residence permit to stay in Switzerland, her grandparents returned to Italy, where they were arrested with their son Piero and deported to Auschwitz in December 1943, where they perished. According to Claimant, she is her grandparents’ sole heir. The Claimant submitted inheritance documents showing her relationship to her grandparents, excerpts from a book relating to the deportations in Italy between 1943 and 1945, as well as numerous bank documents and letters resulting from her correspondence with Bank I and Bank II.

On 17 March 1998, the Claimant filed a claim form with ATAG Ernst & Young, claiming an account owned by Ugo de Benedetti which was published on a list of account owners in 1997. The claim was forwarded to Bank II. In a letter to the Claimant dated 13 January 1999, Bank II indicated that the published account was a safe deposit box numbered 1606, rented on 15 August 1939 by Ugo De Benedetti. Bank II recognized the Claimant's entitlement to this account and provided her with a copy of a certified inventory of the safe established on 22 November 1976, when the safe was opened by three employees of Bank II in order to recover unpaid rental fees. The certified inventory indicates that the bank was in possession of the keys of the safe, which were used to open the safe. In addition to bank statements relating to certain Bank II accounts, which are discussed below, the certified inventory included documents relating to an account held at Bank I by the Claimant's grandfather. The contents of the safe were preserved by Bank II in a sealed envelope in 1976 and given to the Claimant in 1999. In a letter dated 28 April 1999, the Claimant requested additional information on this safe deposit box from Bank II, but Bank II did not respond to the Claimant's request.

On 8 February 1999, the Claimant contacted Bank I in order to obtain information about the account held at this bank. In a letter dated 2 March 1999, Bank I stated that the Claimant's grandfather, Ugo De Benedetti, opened the numbered account No. 1781893 on 4 July 1939 and gave a power of attorney for this account to his wife, E. De Benedetti, on the same date. With this letter, Bank I provided copies of a power attorney form and two signature cards. In a letter dated 3 August 1999, Bank I informed the Claimant that the information reported previously about the account of Ugo de Benedetti had been confirmed by the auditors who carried out the investigation of this bank to identify accounts of Victims of Nazi Persecution pursuant to instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"). Both Bank I and Bank II stated that they found no trace in their archives of other accounts belonging to the Account Owner.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an ATAG Ernst & Young claim form in 1998, asserting her entitlement to a Swiss bank account owned by Ugo De Benedetti.

Information Available in the Bank Records

Bank I

The records of Bank I consist of a power of attorney form and a form for signature samples relating to a custody account and a demand deposit account, both numbered 1781893, owned by U. De Benedetti. The Bank's records indicate that these accounts were opened on or before 4 July 1939. The records also indicate that U. De Benedetti gave a power of attorney over the accounts to his wife, E. De Benedetti, who was born on 6 June 1904. The Bank's records show that the custody account contained a 3% *Eidgenössische Anleihe 1903 Serie II* bond of a nominal value of 5,000.00 Swiss Francs, which was worth 4,980.00 Swiss Francs on 4 July 1939, and an additional 3% *Eidgenössische Anleihe 1903 Serie II* bond of a nominal value of 1,500.00 Swiss Francs purchased on 15 October 1939 in accordance with instructions given by the Account Owner. The bank documents further show that an amount of 3,000.00 Swiss Francs was

deposited in the demand deposit account on 5 August 1939, and that an additional amount of 1,400.00 Swiss Francs was deposited on 15 August 1939. The ICEP auditors who reviewed these accounts did not find the accounts in the bank's system of open accounts, and they therefore presumed that they were closed. These auditors indicated that there was no evidence of activity on the accounts after 1945. The bank documents do not show to whom the accounts were paid.

Bank II

As shown by the certified inventory of the safe deposit box submitted by the Claimant and corroborated by Bank II in its letter of 13 January 1999, the safe contained an account statement from Bank II relating to the transfer of an amount of 2,000.00 Swiss Francs made on 15 August 1939 from a numbered account of an unknown type identified by the number 12206 to a demand deposit account held at Bank II. The safe also contained a *3% Eidgenössische Anleihe 1903 Serie II* bond of a nominal value of 1,500.00 Swiss Francs (with coupons), which was redeemed on 15 April 1946.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the Claimant's claims in one proceeding.

Identification of the Account Owner

The Claimant has plausibly identified the Account Owner. The Claimant has provided her grandfather's name and her grandmother's date of birth, her nickname and her marital status, which matches unpublished information about the Account Owner and the Power of Attorney Holder contained in the bank documents. In addition, the two banks holding the accounts expressly recognized that the Claimant identified the right persons as the Account Owner and the Power of Attorney Holder. The CRT notes that there are no other claims to these accounts.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant has shown that the Account Owner, her paternal grandfather, was Jewish and perished in Auschwitz in December 1943.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly shown that the Account Owner was her grandfather, Ugo De Benedetti, by providing documentation including a family tree and inheritance documents. The Claimant stated that her grandfather had no other surviving heirs.

The Issue of Who Received the Proceeds

Given that the Account Owner and the Power of Attorney Holder were denied a permit to reside in Switzerland, were thereafter captured by the Nazis and killed at Auschwitz in 1943, and the application of Presumptions (e), (h) and (j), as provided in Article 28 of the Rules (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the Power of Attorney Holder or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to determine whether Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her grandfather, and that relationship justifies an Award. Finally, the CRT has determined that it is plausible that neither the Account Owner nor his heirs received the proceeds of the claimed accounts.

Amount of the Award

In this case, the Account Owner held four accounts: one demand deposit account and one custody account at Bank I and one demand deposit account and one safe deposit box at Bank II. With regard to the accounts at Bank I, the Bank's records indicate that the value of the demand deposit account at Bank I was 4,400.00 Swiss Francs and the value of the custody account was 6,500.00 Swiss Francs in August 1939. The total value of the accounts held at Bank I was 10,900.00 Swiss Francs.

With regard to the accounts at Bank II, the Bank's records indicate that value of the demand deposit account at Bank II was 2,000.00 Swiss Francs on 15 August 1939 and the value of the bond in the safe deposit box at Bank II was 1,500.00 Swiss Francs on 15 April 1946. In accordance with Article 31 of the Rules, the amount of the safe deposit box at Bank II is increased by an adjustment of 50.00 Swiss Francs, which reflects standardized bank fees charged to the safe deposit box between 1945 and 15 April 1946. Consequently, the adjusted balance of the safe deposit box at Bank II is 1,550.00 Swiss Francs. The total value of the accounts held at Bank II was 3,550.00 Swiss Francs.

In total, the value of the accounts held at both Bank I and Bank II was 14,450.00 Swiss Francs. The current value of these accounts is calculated by multiplying them by a factor of 12, in accordance with Article 31(1) of the Rules, to produce an award amount of 173,400.00 Swiss Francs.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claims to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
June 3, 2003